

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

George McCall,) CASE NO. 1:21 CV 902
Plaintiff,)
Vs.) JUDGE PATRICIA A. GAUGHAN
U.S. Department of Homeland Security)
Claims Management Branch,) Order of Dismissal
Defendant.)

This matter is before the Court upon Defendant Department of Homeland Security Claims Management Branch's Motion to Dismiss. (Doc. 15). Plaintiff does not oppose the motion. For the reasons that follow, the motion is GRANTED.

Plaintiff George McCall filed this lawsuit against various defendants alleging claims relating to money missing from Plaintiff's luggage, but served only Defendant Department of Homeland Security Claims Management Branch ("DHS") and Frontier Airlines, Inc.¹ DHS moves to dismiss under Fed. R. Civ. P. 12(b)(1), arguing that it is not a proper defendant under the Federal Tort Claims Act ("FTCA"), which provides the "exclusive" remedy for

¹ Plaintiff and Frontier Airlines, Inc. settled all claims in this action. (Doc. 16).

plaintiffs seeking damages for a federal employee's wrongful conduct. 28 U.S.C. § 2679(b)(1).

The FTCA does not allow a federal agency to be sued “in its own name.” *FDIC v. Meyer*, 510 U.S. 471, 476 (1994) (quoting 28 U.S.C. § 2679(a)). Instead, plaintiffs asserting FTCA claims must name the United States as a defendant; otherwise, the case must be dismissed. *Allgeier v. United States*, 909 F.2d 869, 871 (6th Cir. 1990) (“Failure to name the United States as defendant in an FTCA suit results in a fatal lack of jurisdiction.”). DHS is an agency of the United States and is thus not a proper defendant under the FTCA. Accordingly, this Court lacks subject matter jurisdiction and dismissal is warranted.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Judge
Chief Judge

Dated: 10/18/21